

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-487

December 3, 2003

TIDEWATER TELECOM
Implementation of 2002 Amendments to
Chapter 204, Request for Waiver of BSCA
Calling Option Classification

ORDER GRANTING WAIVER OF
BSCA CALLING OPTION
CLASSIFICATION

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we grant a waiver requested by Tidewater Telecom from a provision of Chapter 204 (Basic Service Calling Areas) that requires classification of the calling option in exchanges that have only one calling option as "Premium." Pursuant to this waiver, Tidewater may classify the calling option in its South Bristol and New Harbor exchanges as "Economy."

II. BACKGROUND

Chapter 204 establishes basic service calling areas (BSCAs) and calling options (Economy and Premium) that will be available within each BSCA. Some BSCAs historically have had only one calling option. Sections 2(L) and 3(C) of the Rule state that in exchanges with only one calling option, that option will be classified as Premium. The recent amendments to Chapter 204 mandate that the BSCA for all exchanges in the state include all contiguous exchanges (as well as exchanges previously included). If, as a result of that mandate, an exchange that previously had only a Premium option adds one or more exchanges to its existing BSCA, the former BSCA will become the "flat-rated calling area of the Economy option." Chapter 204, § 3(A)(2)(a). As a result of adding contiguous exchanges, a large number of BSCAs in the state that formerly had one calling option (Premium) will now have both Premium and Economy options.

The South Bristol and New Harbor exchanges are not among the exchanges that will add new exchanges to their BSCAs. Both exchanges already include all contiguous exchanges in their BSCAs. (Both are located on a peninsula, so that the number of contiguous exchanges is limited.) Thus, under the Rule, both would continue only to have a Premium option.

Tidewater supports its request for a waiver of Sections 2(L) and 3(C) with the following (in the interest of clarity and accuracy, we have added the material in brackets):

Because the calling areas of the South Bristol and New Harbor exchanges already include all contiguous exchanges, no new exchanges are being added to their calling areas, and, therefore, according to the definitions in the Rule, in each exchange the Economy and Premium options would be identical. Sections 2(L)

and 3(C) of the BSCA Rule provide that exchanges in which the Premium and the Economy options are identical are to be classified as having only a Premium calling option.

If these two exchanges are classified as having only the Premium option, the rates for customers who are receiving no additional calling area will be higher than they would be under the Economy option. This is of concern to Tidewater in a period where rates are already increasing substantially due to BSCA implementation, increases in Verizon's rates due to BSCA and rate group consolidation, and access rate reductions. In addition to this general concern with the level of rates in the absence of any increase in calling area, there is also a parity issue in this case. The [BSCAs] for the South Bristol and New Harbor exchanges are the same as the [flat-rated] Economy calling area of Tidewater's Damariscotta exchange.¹ Thus, customers in the two exchanges would be required to pay higher rates than the neighboring Damariscotta customers who [subscribe to the Economy option] and [will] have the same [flat-rated] calling area.

A waiver would be in the public interest in that it would help to keep basic service rates lower in these two exchanges given that they receive no additional calling area, and it would alleviate the potential customer confusion and concerns which may arise where an [Economy] customer in Damariscotta and a customer in South Bristol or New Harbor have the same [flat-rated] calling area, but the calling option is classified as Economy, with a lower rate level, in Damariscotta and as Premium, with a higher rate level, in South Bristol or New Harbor.

II. DISCUSSION AND DECISION

We find Tidewater's rationale for its waiver request persuasive and grant the request. We are well aware that when we ordered a uniform approach for BSCA expansions, inconsistent treatment of similarly situated customers might result. We commend Tidewater for recognizing the anomaly that would occur in this situation and for seeking the waiver. The amended Rule itself encourages waiver requests for certain stated circumstances. See Sections 3(A)(2)(b) and 5(A)(2).

Accordingly, we

G R A N T

The waiver requested by Tidewater Telecom of Sections 2(L) and 3(C) of Chapter 204 for its South Bristol and New Harbor exchanges; Tidewater Telecom shall classify the single calling option in those exchanges as "Economy" and charge the Economy option rates previously approved in this docket for those exchanges.

¹ The BSCA for the Damariscotta exchange will add four contiguous exchanges. The present Damariscotta BSCA is identical to those for South Bristol and New Harbor and will become the flat-rated calling area of the new Economy option in Damariscotta.

Dated at Augusta, Maine, this ____ day of _____, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.